

KIC 12026 PTN 2011
KARNATAKA INFORMATION COMMISSION
(Sri.K.Venugopal Vs. Tahsildar and PIO, Bellary Taluk, Bellary District)

ORDER

17.7.2012

1. Petitioner is absent. Sri.Ashok, S.D.A., Taluk Office, Bellary, represents the respondent.
2. In his request for information dated 28.7.2011, petitioner sought information on the following:
“To furnish information regarding LRM case No.1545/75-76 land bearing S.No.1065 measuring 10.20 acres situated at Bellary(R) Bellary Taluk (1) Form No.7 (2) Tribunal Proceedings (3)Statements (4) Notices (5) Tribunal Order (6) Form No.10 (7) Others if any”
3. Since no information is provided, petitioner filed complaint on 3.11.2011 under section 18(1) of the Act.
4. In his letter dated 13.7.2012 to the Commission, Tahsildar and PIO, Bellary Taluk, has stated that on 15.12.2011 he has provided the information to the petitioner. Aggrieved by this, petitioner has approached District Consumers Redressal Forum and the Consumers Forum has awarded a compensation of Rs.500/- and imposed a penalty of Rs.500/- and the same is paid on 10.7.2012. Since the concerned record was not available, information is provided on 15.12.2011. Immediately after the file was traced he has provided the information. He also states that the Consumers Forum has already imposed a penalty and requests the Commission not to impose penalty nor to award compensation.
5. Commission noted the contents. Commission noted that in his order dated 16.5.2011 in CC No.142 of 2011 District Consumer Disputes Redressal Forum, Bellary, has heard the complaint filed under section 12 of Consumer Protection Act 1986.
6. Commission likes to bring to the knowledge of the President and Member of District Consumer Disputes Redressal Forum, Bellary, the provisions of section 22 of RTI Act 2005 which has clearly stated that the provisions of RTI Act shall have effect notwithstanding anything inconsistent therewith contained in the Official Secret Act 1923 and other law, time being in force or any instrument having effect by virtue of law any law other than this Act. Right to information Act came into force on 12th October 2005. It has over riding effect on the existing enactments including Consumers Protection Act 1986 in respect of Right to Information Act is having its inbuilt mechanism to impose penalty under section 20(1) of the Right to Information Act and to award compensation under section 19(8)(b) of the Act.
7. Commission also likes to bring to the knowledge of the District Consumer Disputes Redressal Forum, Bellary, that section 20(1) of the Act clearly states that penalty at the rate of Rs.250/- per day is leviable on the PIO for each day's delay. On the other hand the Consumer Forum has imposed a nominal penalty of Rs.500/- which is not justifiable under RTI Act. Even while awarding compensation also reasonable opportunity should be given and compensation should be paid from the funds of the “Public Authority” and not by the PIO hence Commission directs the Under Secretary of the Commission to send a copy of this order to the President, District Consumer Disputes Redressal Forum, Bellary, with a request not to hear cases under RTI Act in future.
8. This case may be referred to full bench of the Commission to take a decision in this regard.
9. A copy of this order may be sent to the Chairman, Karnataka Consumers Redressal Forum, Basava Bhavan, Palace Road, Bangalore, with a request to direct all the Consumers Forum in the State not to entertain Appeals/Complaints filed under RTI Act.
10. Commission noted that the request for information is received on 28.7.2011 and information is provided 15.12.2011 after a lapse of nearly four months.
11. **Commission directs Sri.Shashidhar Bagli, Tahsildar and PIO, Bellary Taluk, to show cause within 30 days, why penalty under section 20(1) of the Act should not be imposed on him for not providing the information within the mandatory period. Failing which, action as deemed fit will be taken on the merits of the case.**
12. Commission likes to bring to the knowledge of the petitioner the decision of the Hon'ble Supreme Court in Civil Appeal No.10787 – 10788 of 2011 dated 12.12.2011. In his complaint petitioner has requested the Commission to direct the PIO to provide the information. Since the

petitioner has filed complaint under section 18(1) of the Act, there is no provision to direct the respondent. If the petitioner still desires to get the information, he has to utilise the opportunity provided under section 19(1) of the Act by filing 1st Appeal within 30 days. If the petitioner files such Appeal, the same should be considered on merits by the Assistant Commissioner and First Appellate Authority, Bellary Sub division, Bellary, without insisting on the period of limitation and dispose off the same within 30 days with a grace period of 15 days. If the First Appellate Authority fails to dispose off such Appeal within 45 days, petitioner is at liberty to file 2nd Appeal under section 19(3) of the Act before this Commission within 90 days.

13. The complaint is adjourned to 3.10.2012 at 11.00 a.m.

14. Dictated, draft corrected, signed and pronounced in the open Court, this 17th day of July 2012.

(J.S.VIRUPAKSHIAH)
State Information Commissioner

Addresses of Parties:

KIC 12026 PTN 2011	BY RPAD	KIC 12026 PTN 2011
Sri.Shashidhar Bagli, Tahsildar and PIO, Bellary Taluk, Bellary District		Sri.K.Venugopal, Advocate, Ward No.5, Opp: D.T.I. Office, Gugratti, Bellary District-583 102
KIC 12026 PTN 2011	BY RPAD	KIC 12026 PTN 2011
The Chairman, Karnataka Consumers Redressal Form, Basava Bhavan, Palace Road, Bangalore		The Under Secretary, Karnataka Information Commission, 2 nd Gate, 2 nd Floor, M.S.Building, Bangalore

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